

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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December 13, 2007

The Honorable Scott D. Pelath
State of Indiana
House of Representatives
Third Floor, State House
Indianapolis, IN 46204

Dear Representative Pelath:

This is in response to your letter of December 4, 2007 regarding the 2006-pay-2007 LaPorte County property tax assessments. I will address your questions in order. However, I ask that you please direct your attention primarily to the responses to Questions number 1 and 2 for the reasons behind the Department of Local Government Finance's (Department) current review of LaPorte County's assessments.

1. Question: If the Department is not satisfied with LaPorte County's assessment data, why did it even consider certifying the assessments?

Response: Currently, the Department is satisfied with the assessment data provided to the Department by LaPorte County; however, serious questions have been raised about the uniformity, equity, accuracy, and fairness of these assessments. These questions have caused the Department to take another look at the assessments in LaPorte County for 2006-pay-2007. These concerns were brought to the Department's attention on October 19, 2007 by LaPorte County resident, William H. Wendt. Mr. Wendt paid a private firm to conduct a sales-assessment ratio study for LaPorte County. The study was performed by Robert C. Denne of Almy, Gloudemans, Jacobs & Denne, Property Taxation and Assessment Consultants. Mr. Denne is a highly respected analyst who assisted the Indiana Fiscal Policy Institute (IFPI) from 2003 through 2005 with a county-by-county, parcel-level analysis of the 2002 reassessment in Indiana.

Mr. Denne's LaPorte County sales ratio study was based upon parcel and assessment data submitted from the county to the Department on June 4, 2007. The ratio study also analyzed the sales data reported by the county to the Department on September 5, 2007. Additionally, minor use was made of a copy of the county's assessment database, which was apparently obtained by Mr. Wendt or Mr. Denne in mid-June 2007.

On October 29, 2007, Mr. Wendt's Indianapolis attorney, Thomas Atherton, submitted a written request to the Department asking that a reassessment be ordered for LaPorte County due

to the results indicated in the Denne ratio study. The results of the Denne ratio study demonstrated that the assessments in LaPorte County fell outside the statistical ranges of acceptability under Indiana law. In his letter, Mr. Atherton cited Indiana Code sections 6-1.1-4-9; 6-1.1-4-31, *et seq*; and 6-1.1-33.5-1 as the authorities by which the Department may order a reassessment of LaPorte County.

As has been emphasized to LaPorte County officials and Mr. Wendt, no decision has been made on what actions, if any, the Department will take as a result of the request for a reassessment. The Department is still in the process of collecting and reviewing the relevant data in order to make an informed decision on whether to order a reassessment in LaPorte County.

2. Question: On what date did the Department surmise that existing data was unsatisfactory? What influenced this appraisal?

Response: The Department decided to take another look at the LaPorte County assessments shortly after October 19, 2007 when Mr. Wendt provided the Department with the sales ratio study conducted by Mr. Denne. The submission of this ratio study was followed by Mr. Atherton's written request for a reassessment of LaPorte County on October 29, 2007. In his letter, Mr. Atherton cited Indiana Code sections 6-1.1-4-9; 6-1.1-4-31, *et seq*; and 6-1.1-33.5-1 as the authorities by which the Department may order a reassessment of LaPorte County.

On November 7, 2007, the Department provided LaPorte County officials with the Denne ratio study. The Department also expressed concerns with county officials of what the study indicated. During the conversation with the county officials, the Department gave the county the opportunity to respond to the Denne ratio study. The deadline for a response was set for December 10, 2007.

On November 28, 2007, LaPorte County and Nexus Group, the county's vendor, submitted its response to the Denne ratio study. On December 2, 2007, the Department received the raw 2006-pay-2007 tax billing data submitted by LaPorte County for 2006-pay-2007. On December 4, 2007, the Department requested from Mr. Wendt all of the data used by Mr. Denne to create his October 2007 ratio study.

On December 10, 2007, the Department was notified that the tax billing data submitted by LaPorte County was deemed non-compliant by LSA. As a result, this data will be sent back to the county to be corrected.

It is the Department's intention at this time to review, analyze, and compare the county's March 2007 ratio study, the Denne ratio study of October 2007, and the county's December 2007 tax billing data. The Department believes such an analysis will assist in determining whether the assessments in LaPorte County are accurate, uniform, and equitable. However, without all of the data Mr. Denne used to create his ratio study and without compliant tax billing data from LaPorte County, the Department is unable to conduct its analysis at this time.

3. Question: Throughout the Department's certification process, does the Department weigh the interest costs of any delay? Are they considered in comparison to the aggregate, potential benefit of any further review?

Response: The Department's overwhelming interest is to ensure the laws of the State of Indiana are followed; specifically, Article 10, section 1 of the Indiana Constitution, which requires "a uniform and equal rate of property assessment and taxation" and regulations that "secure a just valuation for taxation of all property, both real and personal." The Department is required to follow the law and fulfill its statutory duties.

For example, Indiana Code section 6-1.1-31-1 grants the Department the authority to adopt rules concerning the assessment of tangible (real and personal) property. Indiana Code section 6-1.1-35-1 requires the Department to "see that all property assessments are made in the manner provided by law." Indiana Code section 6-1.1-4-4.5 requires the Department to "adopt rules establishing a system for annually adjusting [trending] the assessed value of real property to account for changes in value in those years since a general reassessment of property last took effect." These "trending" rules, which are found in 50 Indiana Administrative Code (IAC) 21, are required by statute to "promote uniform and equal assessment of real property within and across classifications." Also, the Department is statutorily obligated to "review and certify each annual adjustment" determined under the law. Lastly, Indiana Code section 6-1.1-4-31 requires the Department to "periodically check the conduct of ... work required to be performed by local officials under 50 IAC 21" and "other property assessment activities in the county, as determined by the department." The Department's rules regarding assessment are covered in Title 50, IAC.

Since no decision has been made on whether or not to order a reassessment in LaPorte County, the county officials must continue with their daily tasks and complete their statutory duties. The Department sees no reason why any county official should be delayed in doing their job at this time. No decision to order a reassessment has been made.

4. Question: Are any concerns about LaPorte County's assessments best left to existing appeals processes and legal remedies?

Response: Indiana Code section 6-1.1-15-1 permits a taxpayer to "obtain a review by the county board of a county [county property tax assessment board of appeals] or township official's action with respect to the assessment of the taxpayer's tangible property." However, the concerns raised by the Denne ratio study affect the uniformity, equity, and accuracy of the assessments of *all* taxpayers in LaPorte County, not just one taxpayer. As discussed above, the Department is statutorily required to ensure the annual adjustment process and other assessment procedures comply with Indiana law. The appeals process is a private right of a taxpayer, which may or may not be exercised. The Department simply cannot abdicate its responsibilities to the citizenry in the hope that possible countywide inequities and inaccurate assessments that violate the laws and administrative rules of the Department will be worked out through the appeals process.

5. Question: If the Department signed-off on an assessment, why should LaPorte County taxpayers bear the cost of a Departmental reversal?

Response: The Department approved LaPorte County's ratio study in March 2007 for 2006-pay-2007. That determination was based upon data provided to the Department from the county. A ratio study compares the County Assessor's estimate of value with objectively verifiable data, like sales of parcels. The Department reviewed the median, the coefficient of dispersion (COD), and price-related differential (PRD) in the ratio study submitted to the Department from the county for accuracy, uniformity, and equity of the assessments by classification (i.e., industrial, commercial, and residential) and by township.

In addition to the sales ratio study review process described above, the Department, at the direction of Governor Daniels, reviewed the County Assessor data set, which included the gross assessed valuation on *all* parcels in the county, not just those involved in sales. For 2006-pay-2007, this information was often times submitted six to eight months after the Department's approval of the county's sales-assessment ratio study. This Assessor data was reviewed by the Department's Assessment Division to determine the percent of change or no change between the parcels for the March 1, 2005 assessment date, which had a January 1, 1999 valuation date, and the March 1, 2006 assessment date, which had a January 1, 2005 valuation date. This analysis was conducted on every county and was done to verify whether or not the annual adjustment statute (Ind. Code § 6-1.1-4-4.5) and administrative rule were administered properly (50 IAC 21).

LaPorte County passed both of these analytical tests. However, the Denne ratio study has called into question the accuracy, uniformity, and equity of the assessments in LaPorte County. The Denne ratio study was presented to the Department on October 19, 2007 and uses data from the county's June 4, 2007 submission of parcel and assessment data to the Department and sales data reported to the Department by the county, as described above. This study, which was conducted by a reputable analyst, deserves appropriate attention.

As was stated above, it is the Department's intention at this time to review, analyze, and compare the county's March 2007 ratio study, the Denne ratio study of October 2007, and the county's December 2007 tax billing data. The Department believes such an analysis will assist in determining whether the assessments in LaPorte County are accurate, uniform, and equitable. However, without all of the data Mr. Denne used to create his ratio study and without compliant tax billing data from LaPorte County, the Department is unable to conduct its analysis at this time.

With regards to the cost of a reassessment, Indiana Code section 6-1.1-4-29 and Indiana Code section 6-1.1-4-31(i) place the expenses of a reassessment, except for the normal functions of the Department, on the county in which the reassessed property is situated.

6. Question: In layman's terms, what additional data is the Department seeking? Why is available data deficient?

Response: The Department needs the data used by Mr. Denne to create his October 2007 ratio study and compliant December 2007 tax billing data from the county in order to run a comparative analysis to determine whether the assessments in LaPorte County for 2006-pay-2007 were uniform, equitable, and accurate.

On December 2, 2007, the county submitted its raw 2006-pay-2007 tax billing data to the Department for review. Unfortunately, on December 10, 2007, the Department was notified that the tax billing data submitted by LaPorte County was deemed non-compliant by LSA. As a result, this data will be sent back to the county to be corrected.

On December 4, 2007, a request was made by the Department to Mr. Wendt to provide all of the data used in the Denne ratio study after it became apparent the Department was not in possession of all of the data utilized by Mr. Denne.

As an aside, it should be noted that the county's real property data for 2007-pay-2008, which was due to the Department by November 15, 2007 (extended from the statutory due date of October 1, 2007) has not been received as of this date. Ind. Code § 6-1.1-4-25; Ind. Code § 4-10-13-5.

As the Department has clearly indicated to LaPorte County and Mr. Wendt, it is critical that the Department, LaPorte County, and Mr. Wendt all have access to the exact same data for review and analysis purposes. It is the Department's hope that LaPorte County and Mr. Wendt share the same goal as the Department: to ensure a uniform and equitable property assessment system for the taxpayers of LaPorte County.

Thank you for your interest in this process. If you have other questions or concerns, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cheryl A. W. Musgrave".

Cheryl A. W. Musgrave
Commissioner